

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

LARRY FLOYD and
SHANTAE DEGRATE,
Plaintiff,

v.

JUSTIN DURRANT and
WE THE PEOPLE TRUCKING, LLC,
Defendants.

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CIVIL ACTION NO. _____

JURY REQUESTED

DEFENDANTS' NOTICE OF REMOVAL

Defendants JUSTIN DURRANT and WE THE PEOPLE TRUCKING, LLC file this Notice of Removal for the purpose of removing this cause to the United States District Court for the Northern District of Texas, Dallas Division, and states as follows:

**I.
STATE COURT ACTION**

1. On August 25, 2021, Plaintiffs Justin Floyd and Shantae Degrate ("Plaintiffs") filed their Original Petition and initiated an action against Defendants Justin Durrant and We The People Trucking, LLC in the 192nd District Court, Dallas County, Texas (the "State Court Action"). (See Appendix Exhibit "B"). Plaintiffs allege damages and seek monetary relief in excess of \$250,000.

2. Defendants Justin Durrant and We The People Trucking, LLC filed their Original Answer on October 25, 2021.

3. Plaintiffs' Petition against Defendants in the State Court Action alleges that Defendants were negligent.

4. The amount in controversy is in excess of \$75,000, exclusive of interest and costs. Defendants Justin Durrant and We The People Trucking, LLC have timely filed their Notice of Removal in the State Court Action. There is, therefore, complete diversity of citizenship and a sufficient amount in controversy to confer jurisdiction on this court pursuant to 28 U.S.C. §1332. The above-described civil action is therefore one that may be removed pursuant to 28 U.S.C. §§1332, 1441, and 1446 and is hereby removed.

II. FEDERAL JURISDICTION

5. Plaintiffs Larry Floyd and Shantae Degrate are citizens of the state of Texas for diversity purposes.

6. Defendant Justin Durrant is a citizen of Layton, Utah. Justin Durrant is a citizen of Utah for diversity purposes.

7. Defendant We The People Trucking, LLC is a corporate entity with its primary place of business in Wellington, Utah. We The People Trucking, LLC is a citizen of Utah for diversity purposes.

III. BASIS FOR REMOVAL

8. This Court has original jurisdiction under 28 U.S.C. § 1332 over this civil action, and the action may be removed by Defendants pursuant to, in that it is a civil action between citizens of different states, and the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

9. Plaintiffs were, at the time this action commenced, and are still citizens of the State of Texas.

10. Justin Durrant is a citizen of Utah for diversity purposes.

11. We The People Trucking, LLC is a citizen of Utah for diversity purposes.

12. Because Plaintiffs are citizens of Texas and Defendants are citizens of a different state, complete diversity of citizenship exists among the parties.

13. Plaintiffs are seeking monetary relief “over \$250,000 but not more than \$1,000,000” pursuant to TRCP 47 (c) (4). *See* Plaintiffs’ Original Petition, Page 4.

14. Moreover, because plaintiffs in Texas are not limited to recovery of damages requested in their pleadings, “[l]itigants who want to prevent removal must file a binding stipulation or affidavit with their complaints.” *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1412 (5th Cir.1995) (quoting *In re Shell Oil Co.*, 970 F.2d 355, 356 (7th Cir.1992)). “The general principle is that plaintiffs will have to show that they are bound irrevocably by their state pleadings.” *Id.* at 1412 n.10. No binding stipulation or affidavit was filed with Plaintiff’s Original Petition.

15. Given the nature of Plaintiffs’ claims against Defendants, the alleged damages in this action exceed \$75,000, exclusive of interest and costs.

16. Because the amount in controversy exceeds \$75,000, this Court has subject matter jurisdiction under 28 U.S.C. § 1332, and this removal is proper.

17. Pursuant to 28 U.S.C. § 1446(a), Defendants have filed as exhibits to this Notice of Removal copies of all process, pleadings, orders and the docket sheet in the State Court Action.

18. Pursuant to 28 U.S.C. § 1446(d), Defendants will notify the clerk of the court in the State Court Action of this removal and will give notice thereof to all adverse parties.

**IV.
CONCLUSION**

19. The basis for this removal and this Court's jurisdiction is diversity of citizenship. 28 U.S.C. § 1332. Plaintiffs are citizens of Texas. Defendants Justin Durrant and We The People Trucking, LLC are citizens of the state of Utah. The amount in controversy, based on the allegations in Plaintiffs' Original Petition exceeds \$75,000, exclusive of interest and costs. As such, this removal action is proper. On these grounds, Defendants hereby remove the referenced State Court Action to this Court.

WHEREFORE, Defendants JUSTIN DURRANT AND WE THE PEOPLE TRUCKING, LLC respectfully request that the above-entitled action be removed from the 192nd Judicial District Court, Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division.

Respectfully submitted,

MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.

By: /s/Mark J. Dyer

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**ATTORNEYS FOR DEFENDANTS
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing has been e-served to all attorneys of record, in compliance with the Federal Rules of Civil Procedure, on this the 29th day of October 2021.

/s/ Ryan K. Geddie

RYAN K. GEDDIE